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Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

In the Matter of)
)
CITY OF BOSTON) PS Docket No. 07-69
and)
SPRINT NEXTEL CORPORATION) Mediation No. TAM-11155
)
Related to Rebanding Issues in the	RECEIVED - FCC
800 MHz Band)
To: Chief Administrative Law Judge	OCT 2 6 2007
	Federal Communications Commission
	Solution Commission

BOSTON'S COMMENTS AND OPPOSITION TO MOTION TO ENLARGE ISSUES

The City of Boston, Massachusetts ("Boston"), by and through counsel, hereby submits its comments to Nextel Communications, Inc.'s Comments, Motion To Enlarge Issues, and Request For Conference ("Nextel's Motion") and states the following:

Boston agrees that the Transition Administrator should review any Frequency Reconfiguration Agreement proposed by the parties prior to Nextel's execution. This manner of execution has worked well in other matters and Boston is cognizant of Nextel's desire to obtain assurance that the terms of the agreement will result in Nextel's obtaining credit against its later payment to the U.S. Treasury.

Boston disagrees with Nextel's repeated mischaracterization of the remaining issue related to legal fees. Nextel was fully aware that the issue had not been resolved earlier by the parties and the record demonstrates this fact. The reason the issue was not resolved with finality is that Boston was unable to provide an estimate of such costs during the pendency of the controversy and prior to the Commission's decision regarding whether post-mediation legal costs would be subject to

No. of Copies rec'd 046 List ABCDE reimbursement. Accordingly, Nextel's consistent characterization of such costs as "newly raised" etc., which might suggest that a revision of the amount was a surprise, is simply inaccurate.

Boston further disagrees with Nextel's assertion that the issues might be enlarged to include the issue of legal expenses. The instant matter arises from specific procedures created by the Commission that include a prior review of all issues in dispute via negotiation, mediation and Bureau review, prior to treatment before an Administrative Law Judge. None of the foregoing steps has occurred. Thus, the issue is not ripe for review at this time. In fact, all issues ripe for review have been resolved between the parties and Boston is confident that the parties will be able to negotiate in good faith to resolve this final issue. In any event, Boston does not waive its due process rights created by the Commission, including mediation and review by the Bureau.

Nextel's assertion that further mediation might delay resolution¹ is contrary to the Commission's finding in its rebanding Orders that repeatedly state the Commission's belief that mediation will expedite the pace of negotiations. Since Boston is still awaiting an explanation for Nextel's objection to the legal fees requested, it is apparent that Nextel is choosing litigation over mediation, a choice not offered or encouraged by the Commission.

Nextel Motion at 4.

For the foregoing reasons, Boston sees no value in the requested conference and respectfully requests that the presiding officer direct Nextel down the path of immediate negotiation to resolve this final issue, rather than the delay and expense inherent in continuing litigation.

Respectfully submitted, CITY OF BOSTON

By

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CERTIFICATE OF SERVICE

I., Ann Hamilton Jones, hereby certify that on this 26th day of October, 2007, a copy of the foregoing Comments and Opposition to Motion To Enlarge Issues was sent to the following persons by first class, postage prepaid, U.S. Mail:

Nextel Communications, Inc. c/o Laura H. Phillips Drinker Biddle & Reath, LLP 1500 K Street, N.W. Suite 1100 Washington, D.C. 20005

Gary Schonman, Special Counsel Enforcement Bureau, I & H Division Federal Communications Commission 445 12th Street, S.W., Room 4C237 Washington, D.C. 20554

and by facsimile to

Chief Administrative Law Judge Richard L. Sippel Office of Administrative Law Judges Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 (202) 418-0195

Ann Hamilton Iones